

Article - Insurance

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§15–1205.

(a) (1) This subsection applies to a carrier with respect to any health benefit plan that is a grandfathered health plan, as defined in § 1251 of the Affordable Care Act.

(2) In establishing a community rate for a health benefit plan, a carrier shall use a rating methodology that is based on the experience of all risks covered by that health benefit plan without regard to any factor not specifically authorized under this subsection or subsection (g) of this section.

(3) A carrier may adjust the community rate only for:

(i) age;

(ii) geography based on the following contiguous areas of the State:

1. the Baltimore metropolitan area;
2. the District of Columbia metropolitan area;
3. Western Maryland; and
4. Eastern and Southern Maryland; and

(iii) health status, as provided in subsection (g) of this section.

(4) Rates for a health benefit plan may vary based on family composition as approved by the Commissioner.

(5) (i) Subject to subparagraph (ii) of this paragraph, after applying the risk adjustment factors under paragraph (3) of this subsection, a carrier may offer a discount not to exceed 20% to a small employer for participation in a wellness program.

(ii) A discount offered under subparagraph (i) of this paragraph shall be:

- small employer;
1. applied to reduce the rate otherwise payable by the
 2. actuarially justified;
 3. offered uniformly to all small employers; and
 4. approved by the Commissioner.

(b) (1) This subsection applies to a carrier with respect to any health benefit plan that:

(i) is not a grandfathered health plan, as defined in § 1251 of the Affordable Care Act; and

(ii) is issued, delivered, or renewed in the State on or after January 1, 2014.

(2) In establishing a premium rate for a health benefit plan, a carrier shall use a rating methodology that is based on the experience of all risks covered by that health benefit plan without regard to any factor not specifically authorized under this subsection.

(3) In accordance with § 2701(a) of the Affordable Care Act, a premium rate may vary only by:

(i) whether the health benefit plan covers an individual or a family;

(ii) rating area;

(iii) age, except that a rate may not vary by more than 3 to 1 for adults; and

(iv) tobacco use, except that a rate may not vary by more than 1.5 to 1.

(4) A rate may not vary by any factor that is not specified in paragraph (3) of this subsection.

(c) (1) A carrier shall apply all risk adjustment factors under subsections (a) and (g) of this section consistently with respect to all health benefit plans that are:

(i) issued, delivered, or renewed in the State; and

(ii) grandfathered health plans, as defined in § 1251 of the Affordable Care Act.

(2) A carrier shall apply all risk adjustment factors under subsection (b) of this section consistently with respect to all health benefit plans that are:

(i) issued, delivered, or renewed in the State; and

(ii) not grandfathered health plans, as defined in § 1251 of the Affordable Care Act.

(d) (1) This subsection applies to a carrier with respect to any health benefit plan that is a grandfathered health plan.

(2) Based on the adjustments allowed under subsection (a)(3)(i) and (ii) of this section, a carrier may charge a rate that is 50% above or 50% below the community rate.

(3) On or before October 1, 2007, the Commission shall adopt regulations that require carriers to collect and report to the Commission data on participation, by rate band, in health benefit plans issued, delivered, or renewed under this subtitle.

(e) (1) A carrier shall base its rating methods and practices on commonly accepted actuarial assumptions and sound actuarial principles.

(2) A carrier that is a health maintenance organization and that includes a subrogation provision in its contract as authorized under § 19–713.1(d) of the Health – General Article shall:

(i) use in its rating methodology an adjustment that reflects the subrogation; and

(ii) identify in its rate filing with the Administration, and annually in a form approved by the Commissioner, all amounts recovered through subrogation.

(f) (1) This subsection applies to a carrier with respect to any health benefit plan that is a grandfathered health plan, as defined in § 1251 of the Affordable Care Act.

(2) A carrier may offer an administrative discount to a small employer if the small employer elects to purchase, for its employees, an annuity, dental insurance, disability insurance, life insurance, long-term care insurance, vision insurance, or, with the approval of the Commissioner, any other insurance sold by the carrier.

(3) The administrative discount shall be offered under the same terms and conditions for all qualifying small employers.

(g) (1) A carrier may adjust the community rate for a health benefit plan that is a grandfathered health plan, as defined in § 1251 of the Affordable Care Act, for health status only if a small employer has not offered a health benefit plan issued under this subtitle to its employees in the 12 months prior to the initial enrollment of the small employer in the health benefit plan.

(2) (i) Based on the adjustment allowed under paragraph (1) of this subsection, in addition to the adjustments allowed under subsection (d)(1) of this section, a carrier may charge:

1. in the first year of enrollment, a rate that is 10% above or below the community rate;

2. in the second year of enrollment, a rate that is 5% above or below the community rate; and

3. in the third year of enrollment, a rate that is 2% above or below the community rate.

(ii) A carrier may not make any adjustment for health status in the community rate of a health benefit plan issued under this subtitle after the third year of enrollment of a small employer in the health benefit plan.

(3) For a health benefit plan that is a grandfathered health plan, as defined in § 1251 of the Affordable Care Act, a carrier may use health statements, in a form approved by the Commissioner, and health screenings to establish an adjustment to the community rate for health status as provided in this subsection.

(4) A carrier may not limit coverage offered by the carrier, or refuse to issue a health benefit plan to any small employer that meets the requirements of this subtitle, based on a health status-related factor.

(5) It is an unfair trade practice for a carrier knowingly to provide coverage to a small employer that discriminates against an employee or applicant for employment, based on the health status of the employee or applicant or a dependent

of the employee or applicant, with respect to participation in a health benefit plan sponsored by the small employer.

(h) A carrier shall set premium rates for the entire plan year for each small employer.

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